



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/156333

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 26, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on May 13, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services correctly ended Petitioner's BadgerCare+ benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Jose Silvestre, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St., Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On February 24, 2014, the agency sent the Petitioner a notice indicating that as of April 1, 2014, she would not be enrolled in the BadgerCare Plus program, because her household income was over the program limit. (Exhibit 3, pgs. 15-19)

3. On February 28, 2014, the agency sent Petitioner another notice indicating that as of April 1, 2014, she would not be enrolled in the BadgerCare Plus program because her household was over the program limit. The notice further directed the Petitioner to apply for health insurance through the Federal Health Insurance Market Place. (Exhibit 3, pgs. 21-25)
4. On March 24, 2014, the agency sent the Petitioner a notice indicating that as of May 1, 2014, she would not be enrolled in BadgerCare Plus, because her household income was over the program limit. (Exhibit 3, pgs. 27-31)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on March 26, 2014. (Exhibit 1)
6. The Petitioner's household consists of three people, the Petitioner and her two children. (Exhibit 3, pg. 9; Testimony of Mr. Silvestre)
7. Petitioner's monthly gross household income, before any pre-tax payroll deductions, is \$2229.06. (Testimony of Petitioner; Testimony of Mr. Silvestre.)
8. Petitioner pays approximately \$12.24 per month for Vision insurance through a pre-tax deduction from her paycheck. (Exhibit 3, pgs. 10 and 11)

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the Medicaid program for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29; *BadgerCare Plus Eligibility Handbook (BEH)*, § 2.1. However, the financial eligibility requirements were narrowed.

As of April 1, 2014, an otherwise eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BEH*, § 16.1. 100% of FPL for a household of three is \$1649.17 per month. *BEH* § 50.1.

Although the petitioner meets the nonfinancial eligibility tests for the program, she must also pass an income test.

The Petitioner did not dispute the agency's calculation of her income, as it was based upon the paystubs she provided. The agency determined Petitioner's income, before pre-tax payroll deductions to be \$2229.06. (Exhibit 3, pg. 1; Testimony of Mr. Silvestre) It should be noted that it does not appear the agency applied a \$12.24 per month deduction for vision insurance premiums that Petitioner pays pre-tax, through a payroll deduction. See Exhibit 2, pgs. 10 and 11; *BEH*, §16.3.2.

However, even with that deduction, Petitioner's household income, at \$2217, is over the 100% FPL / \$1649.17 income limit.

If Petitioner is curious, the BEH can be viewed on line at:

<http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>

Petitioner expressed a great deal of frustration with the Federal Market Place website and with the information and misinformation she feels she has received from various agencies. Regrettably, that is not something that can be taken into consideration when making eligibility determinations for the BadgerCare Plus program.

### **CONCLUSIONS OF LAW**

The agency correctly terminated Petitioner's BadgerCare+ benefits effective April 1, 2014.

**THEREFORE, it is**

**ORDERED**

That the Petition is dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 23rd day of June, 2014.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on June 23, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability